UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
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NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>*06/26/2007*</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>*1-54*</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>*1-54*</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>*03/31/2004*</u> is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a) ☐ All   b) ☐ Some *   c) ☐ None of:

   1. ☐ Certified copies of the priority documents have been received.

   2. ☐ Certified copies of the priority documents have been received in Application No. _____.

   3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>*06/18/2007*</u>.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1-54 are rejected.

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
> any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
> requirements of this title.

3.   Claims 43-54 are rejected under 35 U.S.C. 101 because the claimed invention is directed

to non-statutory subject matter.

4.   Claims 43 and 48 are rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter. In claims 43 and 48, the preamble claimed "system", is

software per se, as it is not tangibly embodied on any sort of physical medium. The claim recites

"means receiving", "means identifying", "means creating", "means processing", "means

launching", "means directing", wherein these "means" limitations are described as being

software in the specification. Applicant is suggested to amend the claim including "a storage

medium" or "processor". Appropriate correction is required.

Claim Rejections - 35 USC § 112

5.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

6.   Claims 1-54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention.

       a.   The following language are not clearly understood and indefinite:

            i.   Claim 1, line 2 recites "receiving" it is unclear where it is being received

            and who is receiving. Line 4 recites "identifying" it is unclear how it is identified.

            ii.   Claims 2, line 3 recites "determining the maximum quantity" it is unclear

            how it is being determined.

            iii.   Claims 10, 16, 24, 30, 38, 44 and 50 has similar limitations as of claim 2

            above.

            iv.   Claim 7, lines 4 recites "collecting" it is unclear how the output is being

            collected (i.e. storing the output in an output file?).

            v.   Claim 35 has similar limitations as of claim 7 above.

            vi.   Claim 8, 43 and 48 has similar limitations as of claim 1 above.

            vii.   Claims 8, line 2 it is unclear how the "candidate for enhancement" is

            determined.

            viii.   Claims 22, 36, 48 have similar limitations as of claim 8 above.

Claim Rejections - 35 USC § 102

7.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

     A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8.   Claims 1-6, 8-34, 36-54 are rejected under 35 U.S.C. 102(b) as being anticipated by

Lu(Lu) US Patent Publication 2002/0147855.

9.   As per claim 1, Lu teaches the invention as claimed including a method for enhancing

computer application performance comprising(abstract, lines 11-14):

       receiving an application launch argument list (par. 003, lines 7-9 through par. 008);

       identifying one or more input argument files in the application launch argument list(par.

0032, lines 3-6);

       creating two or more parallel threads when there are two or more input argument files

(par. 0032, lines 6-7); and

       processing the input argument files using the parallel threads (par. 0032, lines 7-10).

10.   As per claim 2, Lu teaches determining the maximum quantity of parallel threads that can

be created (par. 0060, lines 2-6); and

       creating a quantity of parallel threads according to the quantity of parallel threads that can

be created (par. 0061, lines 15-19).

11.   As per claim 3, Lu teaches determining the quantity of parallel threads that can be created

comprises determining the quantity of parallel threads that can be created according to at least

one of a number of active processors, a per-user maximum parallel thread system limitation and

a user-controlled maximum-parallel thread environment variable (par. 0140, lines 21-27).

12.   As per claim 4, Lu teaches determining the quantity of parallel threads that can be created

comprises determining the quantity of parallel threads that can be created according to one or

more environment variables (par. 0140, lines 21-27; par. 0126, lines 1-12)).

13.   As per claim 5, Lu teaches receiving a maximum thread indicator from the application

launch argument list (par. 0060, lines 2-6; par. 0061, lines 1-4); and

         setting the quantity of maximum parallel threads according to the maximum thread

indicator (par. 0061, lines 5-9).

14.   As per claim 6, Lu teaches creating two or more parallel threads comprises: determining

the quantity of input argument files (par. 0061, lines 5-14); and

         creating a quantity of parallel threads according to the quantity of input argument files

(par. 0061, lines 15-19).

15.   As per claim 8, Lu teaches the invention as claimed including a method for enhancing

computer application performance comprising(abstract, lines 11-14):

         receiving an application launch directive (par. 003, lines 7-9; par. 003, lines 7-9 through

par. 008);

         determining if the application launch directive specifies an application that is a candidate

for enhancement (par. 0026, lines 4-7);

         receiving an application launch argument list (par. 003, lines 7-9 through par. 008);

launching two or more parallel instances of the application when the application is a candidate for enhancement and when there are a plurality of input argument files included in the application launch argument list (par. 0032, lines 3-7); and

directing to each application instance an instantiation application launch argument list that includes a corresponding one of the input argument files included in the application launch argument list (par. 0032, lines 7-10).

16.   As per claim 9, Lu teaches determining if the application is a candidate for enhancement comprises determining if the application is included in an enumeration of one or more candidate applications (par. 0146, lines 4-10).

17.   As per claims 10-14, they have similar limitations as of claims 2-6 above. Therefore they are rejected under the same rational as of claims 2-6 above.

18.   As per claim 15, Lu teaches the invention as claimed including a file processing system comprising:

processor capable of executing an instruction sequence (par. 0050, lines 2-4; par. 0033, lines 1-3);

memory (par. 0033, lines 3-5);

console capable of receiving an argument list (par. 0033, lines 3-5);

computer readable medium capable of storing one or more input files and further capable of storing an output stream (par. 0052, lines 1-3);

instruction sequence modules stored in the memory including (par. 0055, lines 1-2):

argument parser module that, when executed by the processor, minimally causes the processor to identify one or more input argument files in an argument list received by the console (par. 0055, lines 1-3; par. 0033, lines 5-6);

functional core module that, when executed by the processor, minimally causes the processor to direct an output stream to the computer readable medium according to an input file stored on the computer readable medium (par. 0034, lines 1-4); and

task master module that, when executed by the processor, minimally causes the processor to (par. 0034, lines 9-10):

create one or more instantiations of the functional core module (par. 0033, lines 5-6);

direct to a corresponding instantiation of the functional core module an input argument file identified by the processor when it executes the argument parser (par. 0033, lines 7-11); and

cause an assignee processor to execute each instantiation of the functional core module (par. 0033, lines 7-9; par. 0050, lines 2-4).

19.   As per claims 16-21, they have similar limitations as of claims 2-6 above. Therefore they are rejected under the same rational as of claims 2-6 above.

20.   As per claim 22, Lu teaches the invention as claimed including a file processing system comprising:

processor capable of executing an instruction sequence (par. 0050, lines 2-4; par. 0033, lines 1-3);

memory (par. 0033, lines 3-5);

console capable of receiving an application launch directive that includes an argument list

(par. 0033, lines 3-5; par. 0003, lines 7-9));

computer readable medium capable of storing one or more input files and further capable

of storing an output stream (par. 0052, lines 1-3);

instruction sequence modules stored in the memory including (par. 0055, lines 1-2):

command line parser module that, when executed by the processor, minimally causes the

processor to(par. 0033, lines 5-6):

identify in a received launch directive an application to be executed(par. 003, lines 7-9

through par. 008);

determine if the identified application is a candidate for enhancement(par. 0026, lines 4-

7);

identify one or more input argument files in an argument list included in the application

launch directive (par. 0055, lines 1-3; par. 0033, lines 5-6);

generate for a task executive a plurality of load directives and corresponding instantiation

argument lists when the identified application is a candidate for enhancement and when there are

two or more input argument files in the argument list wherein a corresponding instantiation

argument list includes one of the input argument files (par. 0026, lines 4-13); and

task executive module that, when executed by the processor, minimally causes the

processor to (par. 0034, lines 9-10):

load into the memory according to the plurality of load directives and corresponding

instantiation argument lists an application module that, when executed by the processor,

minimally causes the processor to direct an output stream to the computer readable medium

according to an input file stored on the computer readable medium(par. 0034, lines 1-4);

      direct to the application module a corresponding instantiation argument list generated by

the command line parser (par. 0033, lines 7-11); and

      cause an assignee processor to execute the application module (par. 0033, lines 7-9; par.

0050, lines 2-4).

21.   As per claim 23, it has similar limitations as of claim 9 above. Therefore it is rejected

under the same rational as of claim 9 above.

22.   As per claims 24-28, they have similar limitations as of claims 2-6 above. Therefore they

are rejected under the same rational as of claims 2-6 above.

23.   As per claim 29, it has similar limitations as of claims 15 above. Therefore it is rejected

under the same rational as of claims 29 above.

24.   As per claims 30-34, they have similar limitations as of claims 2-6 above. Therefore they

are rejected under the same rational as of claims 2-6 above.

25.   As per claim 36, it has similar limitations as of claims 22 above. Therefore it is rejected

under the same rational as of claims 22 above.

26.   As per claim 37, it has similar limitations as of claim 9 above. Therefore it is rejected

under the same rational as of claim 9 above.

27.   As per claim 38-42, they have similar limitations as of claims 2-6 above. Therefore they

are rejected under the same rational as of claims 2-6 above.

28.   As per claims 43-47, they have similar limitations as of claims 1-5 above. Therefore they

are rejected under the same rational as of claims 1-5 above.

29.   As per claims 48 and 49, they have similar limitations as of claims 8 and 9 above.

Therefore they are rejected under the same rational as of claims 8 and 9 above.

30.   As per claims 50-54, they have similar limitations as of claims 2-6 above. Therefore they

are rejected under the same rational as of claims 2-6 above.

Claim Rejections - 35 USC § 103

31.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

32.   Claims 7 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lu(Lu)

US Patent Publication 2002/0147855, in view of Landman et al.(Landman) US Patent No.

7249357.

33.   As per claim 7, Lu teaches allocating an input file to a parallel thread (par. 0091, lines 1-

3);

       Lu does not specifically disclose collecting output from the parallel thread; and

organizing the output from the parallel thread according to the order of input file arguments

included in the application launch argument list.

       However Landman teaches collecting output from the parallel thread (col 4, lines 67

through col 5, lines 1-4); and

       organizing the output from the parallel thread according to the order of input file

arguments included in the application launch argument list (col 8, lines 20-33).

34.   It would have been obvious to a person of ordinary skill in art at the time of invention

was made to incorporate the teaching of Landman into the method of Lu store the output of the

program execution and organize them in order of input. The modification would have been

obvious because one of the ordinary skills of the art would organize the output order to have the

program output in order of the input to be able to receive the data in order it was submitted for

execution to be able to keep track of input output data and execution.

35.   As per claim 35, it has similar limitations as of claim 7 above. Therefore, it is rejected

under the same rational as of claim 7 above.

Conclusion

36.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

        Serrano(US Patent No. 7047232); Sueyoshi(US Patent Publication No. 2004/0015948);

37.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to ABDULLAH AL KAWSAR whose telephone number is

(571)270-3169. The examiner can normally be reached on 7:30am to 5:00pm, EST.

38.   If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Meng Ai T. An can be reached on 571-272-3756. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

39.   Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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